

EXHIBIT 1

Blackwood, Ashley

From: Mark N. Osborn <Mark.Osborn@kempsmith.com>
Sent: Tuesday, November 26, 2024 6:04 PM
To: McDole, Jamie
Cc: hpao@scotthulse.com; jsheasby@irell.com; Williamson, Carrie; Huang, Catherine; chuck.loughlin@hoganlovells.com; chris.fitzpatrick@hoganlovells.com; justin.bernick@hoganlovells.com; Nelson, Peter; Fowler, Mark; Saulnier, Mike; Valerie R. Auger; Zolotorev, Jake; ddacus@dacusfirm.com; parisa@sullcrom.com; Black, Caroline M.L.; beeneyg@sullcrom.com; wackss@sullcrom.com; holleys@sullcrom.com; abadini@winston.com; koehler@mgmsg.com; jkessler@winston.com; Khunsaker@winston.com; lduxstad@winston.com; Mrmccullough@winston.com; storpey@winston.com; almanzan@mgmsg.com; akhrapko@winston.com; dmarzagalli@winston.com; nhussain@winston.com; rou@winston.com; Sriebe@winston.com; SBorder@winston.com; tmelsheimer@winston.com; Nvidia-Xockets-DLA; Xockets_RPX@sullcrom.com; max@ciccarellilawfirm.com; Xockets@irell.com; Xockets_Nvidia_MS; Mark N. Osborn
Subject: RE: Xockets v. NVIDIA et al., Case No. 6:24-cv-453-LS (W.D. Tex.) -- Proposed Schedule

Jamie,

Defendants cannot accommodate your request to meet and confer within one business day in view of the upcoming holiday.

Defendants can agree to begin to hold a 26(f) conference on Thursday, December 5 and submit a 26(f) report/scheduling order on December 27, as suggested by Defendants' Proposed Schedule. Under the Local Rules, the deadline to begin a 26(f) conference is December 20. Defendants' proposal is significantly earlier than the deadlines.

Mark

Mark N. Osborn

Chief Executive Officer

221 N. Kansas | Suite 1700
El Paso, Texas 79901

D: 915 546-5214 | O: 915 533-4424

mark.osborn@kempsmith.com



From: McDole, Jamie <jmcdole@winstead.com>
Sent: Sunday, November 24, 2024 12:16 PM
To: Mark N. Osborn <Mark.Osborn@kempsmith.com>
Cc: hpao@scotthulse.com; jsheasby@irell.com; Williamson, Carrie <Carrie.Williamson@us.dlapiper.com>; Huang, Catherine <Catherine.Huang@us.dlapiper.com>; chuck.loughlin@hoganlovells.com; chris.fitzpatrick@hoganlovells.com; justin.bernick@hoganlovells.com; Nelson, Peter <Peter.Nelson@us.dlapiper.com>; Fowler, Mark <Mark.Fowler@us.dlapiper.com>; Saulnier, Mike <Michael.Saulnier@us.dlapiper.com>; Valerie R. Auger <Valerie.Auger@kempsmith.com>; Zolotorev, Jake <Jake.Zolotorev@us.dlapiper.com>; ddacus@dacusfirm.com; parisa@sullcrom.com; Black, Caroline M.L. <blackcar@sullcrom.com>; beeneyg@sullcrom.com; wackss@sullcrom.com; holleys@sullcrom.com; abadini@winston.com; koehler@mgmsg.com; jkessler@winston.com; Khunsaker@winston.com; lduxstad@winston.com; Mrmccullough@winston.com; storpey@winston.com;

almanzan@mgmsg.com; akhrapko@winston.com; dmarzagalli@winston.com; nhussain@winston.com; rou@winston.com; Sriebe@winston.com; SBorder@winston.com; tmelsheimer@winston.com; Nvidia-Xockets-DLA <Nvidia-Xockets-DLA@us.dlapiper.com>; Xockets_RPX@sullcrom.com; max@ciccarellilawfirm.com; Xockets@irell.com; Xockets_Nvidia_MS <xockets_nvidia_ms@winstead.com>

Subject: Re: Xockets v. NVIDIA et al., Case No. 6:24-cv-453-LS (W.D. Tex.) -- Proposed Schedule

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Counsel,

Xockets intends to move to compel a Rule 26 Conference as we have repeatedly requested such a conference and Defendants have refused. We believe we already conference this motion last week, but please let us know if you believe in additional meet and confer will be productive. If you believe an additional meet and confer will be productive, please let us know when Defendants are available Monday or Tuesday this week.

Jamie McDole, Shareholder

Winstead PC | 500 Winstead Building | 2728 N. Harwood Street | Dallas, Texas 75201
214.745.5154 office | 630-939-0481 mobile | jmcdole@winstead.com | www.winstead.com

On Nov 21, 2024, at 9:39 PM, Mark N. Osborn <Mark.Osborn@kempsmith.com> wrote:

Jamie,

Defendants have been working to provide Plaintiff with their positions to include in the joint motion, but we need more time to coordinate and will be able to provide our positions by Tuesday. We respectfully ask that Plaintiff wait to submit this joint motion until Defendants have an opportunity to provide their positions on Tuesday.

If Plaintiff refuses to wait, when representing to the Court whether the motion is opposed or unopposed, Defendants' position should be stated as follows: "Plaintiff notified Defendants on Tuesday evening, November 19, that it wanted to submit on Thursday, November 21 a joint motion regarding the parties' dispute on the case schedule. Defendants have requested more time until Tuesday November 26 to submit their position in a joint motion, but Plaintiff declined. Accordingly, Defendants will submit their response to Plaintiffs' proposed schedule on Tuesday, November 26 and address the other items in Plaintiff's statement at that time."

Thanks, Mark

Mark N. Osborn

Chief Executive Officer

221 N. Kansas | Suite 1700

El Paso, Texas 79901

D: 915 546-5214 | O: 915 533-4424

mark.osborn@kempsmith.com

<image001.png>

From: McDole, Jamie <jmcdole@winstead.com>

Sent: Tuesday, November 19, 2024 8:43 PM

To: Mark N. Osborn <Mark.Osborn@kempsmith.com>; hpao@scotthulse.com; jsheasby@irell.com; Williamson, Carrie <Carrie.Williamson@us.dlapiper.com>; Huang, Catherine <Catherine.Huang@us.dlapiper.com>; chuck.loughlin@hoganlovells.com; chris.fitzpatrick@hoganlovells.com; justin.bernack@hoganlovells.com; Nelson, Peter <Peter.Nelson@us.dlapiper.com>; Fowler, Mark <Mark.Fowler@us.dlapiper.com>; Saulnier, Mike <Michael.Saulnier@us.dlapiper.com>; Valerie R. Auger <Valerie.Auger@kempsmith.com>; Zolotorev, Jake <Jake.Zolotorev@us.dlapiper.com>; ddacus@dacusfirm.com; parisa@sullcrom.com; Black, Caroline M.L. <blackcar@sullcrom.com>; beeneyg@sullcrom.com; wackss@sullcrom.com; holleys@sullcrom.com; abadini@winston.com; koehler@mgmsg.com; jkessler@winston.com; Khunsaker@winston.com; lduxstad@winston.com; Mrmccullough@winston.com; storpey@winston.com; almanzan@mgmsg.com; akhrapko@winston.com; dmarzagalli@winston.com; nhussain@winston.com; rou@winston.com; Sriebe@winston.com; SBorder@winston.com; tmelsheimer@winston.com; Nvidia-Xockets-DLA <Nvidia-Xockets-DLA@us.dlapiper.com>; Xockets_RPX@sullcrom.com; max@ciccarellilawfirm.com; Xockets@irell.com; Xockets_Nvidia_MS <xockets_nvidia_ms@winstead.com>

Subject: RE: Xockets v. NVIDIA et al., Case No. 6:24-cv-453-LS (W.D. Tex.) -- Proposed Schedule

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Counsel:

Thank you for the email. We will be available Thursday, November 21 at 3:30 pm Central for a meet and confer. Please let me know who from Defendants will be at the meet and confer and I will send a Zoom meeting. To further that meet and confer, please find a joint motion for entry of a scheduling order. Please provide Defendants' positions before the meet and confer so that we can short circuit the discussion and understand each others' position going into the meet and confer. We intend to file such a motion Thursday after the meet and confer. While we hope to resolve any issues at the meet and confer to file an undisputed schedule, the Parties appear to be far apart.

We will agree to disagree about Defendants' delay. I think the record is well established as to Defendants' conduct.

With respect to your statements about the Local Rules, we disagree. Western District of Texas case law indicates that "any appearance by any Defendant" means an appearance of counsel of any Defendant. I appreciate the explanation of your stated experience, but it is contrary to case law. With respect to a Rule 26(f) conference, Defendants have had weeks to consider the issues. Based on the Local Rules, a Rule 26(f) conference was required long ago. While we have previously explained Xockets' position as to a case management plan, to move this issue forward, attached please find Plaintiff's proposals which we intend to request the Court to enter. Please let us know any disagreements. We will be prepared to discuss these issues at the meet and confer on Thursday.

Best regards,

Jamie McDole
214.745.5154 *office*
630-939-0481 *mobile*

From: Mark N. Osborn <Mark.Osborn@kempsmith.com>

Sent: Tuesday, November 19, 2024 5:42 PM

To: McDole, Jamie <jmcdole@winstead.com>; hpao@scotthulse.com; jsheasby@irell.com; Williamson, Carrie <Carrie.Williamson@us.dlapiper.com>; Huang, Catherine <Catherine.Huang@us.dlapiper.com>; chuck.loughlin@hoganlovells.com; chris.fitzpatrick@hoganlovells.com; justin.bernick@hoganlovells.com; Nelson, Peter <Peter.Nelson@us.dlapiper.com>; Fowler, Mark <Mark.Fowler@us.dlapiper.com>; Saulnier, Mike <Michael.Saulnier@us.dlapiper.com>; Valerie R. Auger <Valerie.Auger@kempsmith.com>; Zolotorev, Jake <Jake.Zolotorev@us.dlapiper.com>; ddacus@dacusfirm.com; parisa@sullcrom.com; Black, Caroline M.L. <blackcar@sullcrom.com>; beeneyg@sullcrom.com; wackss@sullcrom.com; holleys@sullcrom.com; abadini@winston.com; koehler@mgmsg.com; jkessler@winston.com; Khunsaker@winston.com; lduxstad@winston.com; Mrmccullough@winston.com; storpey@winston.com; almanzan@mgmsg.com; akhrapko@winston.com; dmarzagalli@winston.com; nhussain@winston.com; rou@winston.com; Sriebe@winston.com; SBorder@winston.com; tmelsheimer@winston.com; Nvidia-Xockets-DLA <Nvidia-Xockets-DLA@us.dlapiper.com>; Xockets_RPX@sullcrom.com; max@ciccarellilawfirm.com; Xockets@irell.com; Xockets_Nvidia_MS <xockets_nvidia_ms@winstead.com>

Cc: Mark N. Osborn <Mark.Osborn@kempsmith.com>

Subject: RE: Xockets v. NVIDIA et al., Case No. 6:24-cv-453-LS (W.D. Tex.) -- Proposed Schedule

Jaime,

Defendants are available to meet and confer with Xockets regarding the proposed case schedules on Thursday afternoon (November 21) between 3:30 – 4:30 pm CT.

Contrary to your claim that Defendants have “refused” to engage, Defendants have been responsive to Plaintiff’s requests and provided a proposed schedule on Friday, November 15. Xockets’ threats to unilaterally go to the Court one business day after receiving Defendants’ proposed schedule are neither productive nor an example of working amicably to move the case forward.

With respect to a 26(f) conference, there are many issues to be discussed in a 26(f) conference including for example the discovery plan and discovery limitations, timing of disclosures and discovery, and ESI issues. We have not heard Xockets’ positions with respect to any of those issues. As we previously communicated, Defendants disagree with Xockets’ characterization that the parties are late in submitting any 26(f) report or case schedule. Defendants just responded to the complaint last week (November 12). In my experience with regard to the timing of filing a proposed scheduling order, the judges in the El Paso Division interpret “any appearance of any defendant” to mean either the filing of a motion to dismiss or an answer (see Local Rule CV-16(c)). This makes sense as the parties need time to assess and consider the scope of the claims and corresponding discovery issues after responding to the complaint. Defendants need some time to consider these issues collectively and will get back to you with a date for a 26(f) conference.

Mark

Mark N. Osborn

Chief Executive Officer

221 N. Kansas | Suite 1700

El Paso, Texas 79901

D: 915 546-5214 | O: 915 533-4424

mark.osborn@kempsmith.com

<image001.png>

From: McDole, Jamie <jmcdole@winstead.com>

Sent: Monday, November 18, 2024 7:50 PM

To: hpao@scotthulse.com; jsheasby@irell.com; Williamson, Carrie <Carrie.Williamson@us.dlapiper.com>; Huang, Catherine <Catherine.Huang@us.dlapiper.com>; chuck.loughlin@hoganlovells.com; chris.fitzpatrick@hoganlovells.com; justin.bernick@hoganlovells.com; Nelson, Peter <Peter.Nelson@us.dlapiper.com>; Fowler, Mark <Mark.Fowler@us.dlapiper.com>; Saulnier, Mike <Michael.Saulnier@us.dlapiper.com>; Valerie R. Auger <Valerie.Auger@kempsmith.com>; Zolotorev, Jake <Jake.Zolotorev@us.dlapiper.com>; ddacus@dacusfirm.com; parisa@sullcrom.com; Black, Caroline M.L. <blackcar@sullcrom.com>; beeneyg@sullcrom.com; wackss@sullcrom.com; holleys@sullcrom.com; abadini@winston.com; koehler@mgmsg.com; jkessler@winston.com; Khunsaker@winston.com; lduxstad@winston.com; Mrmccullough@winston.com; storpey@winston.com; almanzan@mgmsg.com; akhrapko@winston.com; dmarzagalli@winston.com; nhussain@winston.com; rou@winston.com; Sriebe@winston.com; SBorder@winston.com; tmelsheimer@winston.com; Nvidia-Xockets-DLA <Nvidia-Xockets-DLA@us.dlapiper.com>; Xockets_RPX@sullcrom.com; max@cicarellilawfirm.com; Xockets@irell.com; Xockets_Nvidia_MS <xockets_nvidia_ms@winstead.com>; Mark N. Osborn <Mark.Osborn@kempsmith.com>

Subject: FW: Xockets v. NVIDIA et al., Case No. 6:24-cv-453-LS (W.D. Tex.) -- Proposed Schedule

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Counsel,

I am again following up on my email below. We have now requested a meet and confer on schedule several times and have requested a Rule 26(f) conference several times. While we would prefer to work amicably to move the case forward, Defendants' refusal to engage is concerning. To the extent Defendants continue their refusal to engage, we will simply move the Court for entry of our proposed schedule, and in the certificate of conference, Xockets will identify all of its efforts to meet and confer, the history of communications relating to schedule, and that Defendants have refused to engage.

Again, please let me know Defendants availability for a meet and confer tomorrow.

Best regards,

Jamie McDole

From: "McDole, Jamie" <jmcdole@winstead.com>

Date: November 17, 2024 at 10:25:11 AM GMT+8

To: "Mark N. Osborn" <Mark.Osborn@kempsmith.com>

Cc: hpao@scotthulse.com, jsheasby@irell.com, "Williamson, Carrie" <Carrie.Williamson@us.dlapiper.com>, "Huang, Catherine" <Catherine.Huang@us.dlapiper.com>, chuck.loughlin@hoganlovells.com,

chris.fitzpatrick@hoganlovells.com, justin.bernick@hoganlovells.com, "Nelson, Peter" <Peter.Nelson@us.dlapiper.com>, "Fowler, Mark" <Mark.Fowler@us.dlapiper.com>, "Saulnier, Mike" <Michael.Saulnier@us.dlapiper.com>, "Valerie R. Auger" <Valerie.Auger@kempsmith.com>, "Zolotorev, Jake" <Jake.Zolotorev@us.dlapiper.com>, ddacus@dacusfirm.com, parisa@sullcrom.com, "Black, Caroline M.L." <blackcar@sullcrom.com>, beeneyg@sullcrom.com, wackss@sullcrom.com, holleys@sullcrom.com, abadini@winston.com, koehler@mgmsg.com, jkessler@winston.com, Khunsaker@winston.com, lduxstad@winston.com, Mrmccullough@winston.com, storpey@winston.com, almanzan@mgmsg.com, akhrapko@winston.com, dmarzagalli@winston.com, nhussain@winston.com, rou@winston.com, Sriebe@winston.com, SBorder@winston.com, tmelsheimer@winston.com, Nvidia-Xockets-DLA <Nvidia-Xockets-DLA@us.dlapiper.com>, Xockets_RPX@sullcrom.com, max@cicarellilawfirm.com, Xockets@irell.com, Xockets_Nvidia_MS <xockets_nvidia_ms@winstead.com>

Subject: Xockets v. NVIDIA et al., Case No. 6:24-cv-453-LS (W.D. Tex.) -- Proposed Schedule

Mark (and other Defendants' counsel):

Let me know when Defendants are available Monday or Tuesday to meet and confer about the schedule. It looks like we are far apart on our proposals, and it may just be necessary to submit two schedules to the Court. But if there is any room for agreement, we are happy to discuss it.

With respect to timing, we continue to believe that the Parties are already late in submitting the schedule to the Court, as well as having a Rule 26(f) conference and submitting a Rule 26(f) report to the Court. Appearance of Defendants' counsel triggers these deadlines, not Defendants' answer or other pleading. As such, we would ask for a prompt meet and confer and Rule 26(f) conference to move the case forward.

Please let me know when Defendants are available Monday or Tuesday for such a meet and confer and Rule 26(f) conference.

Best regards,

Jamie McDole, Shareholder

Winstead PC | 500 Winstead Building | 2728 N. Harwood Street | Dallas, Texas 75201

214.745.5154 *office* | 630-939-

0481 *mobile* | jmcdole@winstead.com | www.winstead.com

On Nov 16, 2024, at 7:22 AM, Mark N. Osborn
<Mark.Osborn@kempsmith.com> wrote:

Jaime, Attached is Defendants' proposed schedule for your consideration. Mark

Mark N. Osborn

Chief Executive Officer

221 N. Kansas | Suite 1700

El Paso, Texas 79901

D: 915 546-5214 | O: 915 533-4424

mark.osborn@kempsmith.com

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<Defendants' Proposed Schedule.pdf>

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